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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,365	04/20/2004	Stanley J. Flashinski	J-3997	4882

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EXAMINER

PAIK, SANG YEOP

ART UNIT PAPER NUMBER

3742

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/828,365	Applicant(s) FLASHINSKI, STANLEY J.	
	Examiner Sang Y Paik	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 11-15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/20/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kunze et al (US 5,230,867).

Kunze shows the claimed mat including a substrate made of a plastic material having an aromatic agent applied thereto, the mat forming a first substrate portion and a second substrate portion each containing the aromatic agent therein, the substrate portions defined by the moat or channel that extends into the substrate.

With respect to the recitation of forming the moat by the hot forming die, it is noted that such recitation is a product-by-process claim limitation which does not determine the patentability of the product if the product is same or obvious from the product of the prior art even though the prior art was made by the different process. With respect to the claims 7-9, Kunze shows the substrate that is made from the same material as that of the claimed substrate, i.e., plastic material. Since they are made of the same material, the claimed properties such as the claimed heat resistance are presumed inherent.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunze et al (US 5,230,867) in view of Weyenberg et al (US 4,145,001) and Spector (US 4,695,434).

Kunze shows the structure and method claimed including obtaining a mat having a substrate with the first and second portions having the aromatic agent applied thereto. However, Kunze does not show the hot forming die to form the moat and a heater upon which the mat is place.

Weyenberg shows a layered mat having the volatile substance contained therein, and it further shows applying a hot die to press the mat to melt and adhere the mat layers together. Weyenberg further shows that coextrusion process is performed 400° F or above which is equivalent to 204° C or above. In view of Weyenberg, it would have been obvious to one of ordinary to apply the hot die to form the moat in Kunz and to melt and adhere an enclosing outer layer to form a more sealed mat.

Spector shows a heater upon which a mat containing a volatile substance is placed thereto. In view of Spector, it would have been obvious to one of ordinary skill in the art to adapt Kunze with a heater to heat such mat to facilitate more enhance vaporization of the scented volatile substance in the mat, and while Spector does not explicitly show the heating temperature, it would have been obvious to control such heating temperature to further control the vaporization rate since higher temperature would yield more and high evaporation of the volatile substance.

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With respect to claim 4, the pores of the moat walls would have been closed due to the melting of the substrate as performed by Weyenberg.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kunze et al (US 5,230,867) in view of Arnell et al (US 6,713,024).

Kunze shows the mat having the substrate made of a plastic material, but it does not show the plastic material is polyethylene.

Arnell show a volatile containing carrier made of a plastic material including polyethylene. In view of Arnell, it would have been obvious to one of ordinary skill in the art to adapt Kunze with the plastic material such polyethylene that can contain the volatile substance over time without adversely affecting the volatile substance, and also since such material is well known in the art to withstand high temperature.

Allowable Subject Matter

6. Claims 11-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sang Y Paik whose telephone number is 571-272-4783. The examiner can normally be reached on M-F (9:00-4:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sang Y Paik
Primary Examiner
Art Unit 3742

syp